

MONTANA LEGISLATIVE HISTORY

Chapter 352 19 77

Bill H 558 S _____ Original bill & history C

H. Committee on Business & Industry

Hearing Date(s) Feb 16 ✓ C

_____ C

_____ C

_____ C

Date Out _____ C

S. Committee on Natural Resources

Hearing Date(s) Mar 10 ✓ C

Mar 24 ✓ C

_____ C

_____ C

Mar 24 ✓ C

No minutes were
found re action
taken.

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

1 ^H BILL NO. 558
 2 INTRODUCED BY *Falanga Conroy Moore Historia*
 3 *Mayer Darringer Regan Switzer Day*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CONVERT THE 1-YEAR
 5 OPERATING PERMITS UNDER THE MONTANA STRIP AND UNDERGROUND
 6 MINE RECLAMATION ACT AND COAL CONSERVATION ACT INTO 5-YEAR
 7 PERMITS WITH ANNUAL REPORTING REQUIREMENTS; AMENDING
 8 SECTIONS 50-1039, 50-1044, AND 50-1404, R.C.M. 1947."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 50-1039, R.C.M. 1947, is amended to
 12 read as follows:

13 "50-1039. Permit required to engage in strip mining or
 14 underground mining -- application for permit -- contents --
 15 fee -- bond -- agencies exempt -- annual report. (1) An
 16 operator may not engage in strip or underground mining
 17 without having first obtained from the department a permit
 18 designating the area of land affected by the operation. The
 19 permit shall authorize the operator to engage in strip or
 20 underground mining upon the area of land described in his
 21 application and designated in the permit for a period of ~~one~~
 22 ~~(1) year~~ 5 years from the date of its issuance. Such permit
 23 shall be renewable ~~from year to year~~ upon each 5-year
 24 anniversary thereafter upon application to the department at
 25 least thirty (30) but not more than sixty (60) days prior to

1 the renewal date so long as the operator is in compliance
 2 with the requirements of this act, the rules hereunder, and
 3 the reclamation plan provided for in section 50-1043 and
 4 agrees to comply with all applicable laws and rules in
 5 effect at the time of renewal. Such renewal shall further be
 6 subject to the denial provisions of sections 50-1042,
 7 50-1046 and 50-1050.

8 (2) An operator shall file an annual report with the
 9 department within 30 days of the anniversary date of each
 10 permit. Included within this report shall be:

11 (a) the name and address of the operator and permit
 12 number;

13 (b) a report in such detail as the department shall
 14 require, supplemented with maps, cross sections, or other
 15 material indicating the extent to which mining operations
 16 have been carried out, the progress of all reclamation work,
 17 the extent to which expectations and predictions made in the
 18 original application have been fulfilled, and any deviation
 19 therefrom; and the number of acres affected; and

20 (c) a revised schedule or timetable of operations and
 21 reclamation and an estimate of the number of acres to be
 22 affected during the next 1-year period.

23 (3) Upon receipt of the annual report the department
 24 may make further inquiry and request further information,
 25 and if it does so shall allow a reasonable opportunity for

the operator to respond. When problem situations are revealed by review of new information or as a result of field inspections, the department may order such changes in the mining and reclamation plans as are necessary to insure compliance with this chapter.

~~(2)~~ (4) An operator desiring a permit shall file an application which shall contain a complete and detailed plan for the mining, reclamation, revegetation, and rehabilitation of the land and water to be affected by the operation. Such plan shall reflect thorough advance investigation and study by the operator and shall include all known or readily discoverable past and present uses of the land and water to be affected and the approximate periods of such use and shall state:

(a) the location and area of land to be affected by the operation, with a description of access to the area from the nearest public highways;

(b) the names and addresses of the owners of record of the surface of the area of land to be affected by the permit and the owners of record of all surface area within one-half (.5) mile of any part of the affected area;

(c) the names and addresses of the present owners of record of all subsurface minerals in the land to be affected;

(d) the source of the applicant's legal right to mine

the mineral on the land affected by the permit;

(e) the permanent and temporary post-office addresses of the applicant;

(f) whether the applicant or any person associated with the applicant holds or has held any other permits under this act, and an identification of those permits;

(g) whether the applicant is in compliance with section 50-1050 and whether every officer, partner, director, or any individual owning of record or beneficially (alone or with associates) if known, ten percent (10%) or more of any class of stock of the applicant, is subject to any of the provisions of section 50-1050 and he shall so certify, and whether any of the foregoing parties or persons have ever had a strip mining or underground mining license or permit issued by any other state or federal agency revoked, or have ever forfeited a strip mining or underground mining bond or a security deposited in lieu of a bond and if so, a detailed explanation of the facts involved in each case must be attached;

(h) the names and addresses of any persons who are engaged in strip or underground mining activities on behalf of the applicant;

(i) the annual rainfall and the direction and average velocity of the prevailing winds in the area where the applicant has requested a permit;

(j) the results of any test borings or core samplings which the applicant or his agent has conducted on the land to be affected, including the nature and the depth of the various strata or overburden and topsoil, the quantities and location of subsurface water and its quality, the thickness of any mineral seam, an analysis of the chemical properties of such minerals, including the acidity, sulphur content, and trace mineral elements of any coal seam, as well as the British thermal unit (B.T.U.) content of such seam, and an analysis of the overburden, including topsoil. If test borings or core samplings are submitted, each permit application shall contain two (2) copies each of two (2) sets of geologic cross-sections accurately depicting the known geologic makeup beneath the surface of the affected land. Each set shall depict subsurface conditions at five hundred (500) foot intervals across the surface and shall run at a ninety (90) degree angle to the other set unless the department determines that closer intervals are required. Each cross-section shall depict the thickness and geological character of all known strata beginning with the top soil; in addition, each application for an underground mining permit shall be accompanied by cross-sections and maps showing the proposed underground locations of all shafts, entries, and haulageways or other excavations to be excavated during the permit year. These cross-sections

shall also include all existing shafts, entries and haulageways;

(k) the name and date of a daily newspaper of general circulation within the county in which the applicant has prominently published an announcement of his application for a strip mining or underground mining permit, and a detailed description of the area of land to be affected should a permit be granted;

(l) such other or further information as the department may require.

~~(3)~~ (5) The application for a permit shall be accompanied by two (2) copies of all maps meeting the requirements of the subsections below. The maps shall:

(a) identify the area to correspond with the application;

(b) show any adjacent deep mining or surface mining and the boundaries of surface properties and names of owners of record of the affected area and within one thousand (1,000) feet of any part of the affected area;

(c) show the names and locations of all streams, creeks, or other bodies of water, roads, buildings, cemeteries, oil and gas wells, and utility lines on the area of land affected and within one thousand (1,000) feet of such area;

(d) show by appropriate markings the boundaries of the

1 area of land affected, any cropline of the seam or deposit
2 of mineral to be mined, and the total number of acres
3 involved in the area of land affected;

4 (e) show the date on which the map was prepared and
5 the north point;

6 (f) show the final surface and underground water
7 drainage plan on and away from the area of land affected.
8 This plan shall indicate the directional and volume flow of
9 water, constructed drainways, natural waterways used for
10 drainage, and the streams or tributaries receiving the
11 discharge;

12 (g) show the proposed location of waste or refuse
13 area;

14 (h) show the proposed location of temporary subsoil
15 and topsoil storage area;

16 (i) show the location of test boring holes;

17 (j) show the surface location lines of any geologic
18 cross-sections which have been submitted;

19 (k) show a listing of plant varieties encountered in
20 the area to be affected and their relative dominance in the
21 area, together with an enumeration of tree varieties and the
22 approximate number of each variety occurring per acre on the
23 area to be affected, and the locations generally of the
24 various kinds and varieties of plants, including but not
25 limited to grasses, shrubs, legumes, forbs and trees;

1 (l) be certified as follows: "I, the undersigned,
2 hereby certify that this map is correct, and shows to the
3 best of my knowledge and belief all the information required
4 by the mining laws of this state." The certification shall
5 be signed and notarized. The department may reject a map as
6 incomplete if its accuracy is not so attested;

7 (m) contain such other or further information as the
8 department may require.

9 ~~(4)~~ (6) In addition to the information and maps
10 required above, each application for a permit shall be
11 accompanied by detailed plans or proposals showing the
12 method of operation, the manner, time or distance, and
13 estimated cost for backfilling, subsidence stabilization,
14 water control, grading work, highwall reduction, topsoiling,
15 planting, revegetating, and a reclamation plan for the area
16 affected by the operation, which proposals shall meet the
17 requirements of this act and rules adopted under this act.

18 ~~(5)~~ (7) (a) An application fee of fifty dollars (\$50)
19 shall be paid before the permit required in this section
20 shall be issued. ~~The~~ For a bond for the first year of
21 operations, the operator shall file with the department a
22 bond payable to the state of Montana with surety
23 satisfactory to the department in the penal sum to be
24 determined by the board (on the recommendation of the
25 commissioner) of not less than two hundred dollars (\$200)

nor more than twenty-five hundred dollars (\$2,500) for each acre or fraction thereof of the area of land affected, with a minimum bond of two thousand dollars (\$2,000), conditioned upon the faithful performance of the requirements set forth in this act and of the rules of the board. A political subdivision or agency of the state need not file a bond unless required to do so by the board. The board may require the filing of the bond prior to permit issuance or at any time thereafter.

(b) Together with the annual report, the operator shall file with the department a bond payable to the state with surety satisfactory to the department in the penal sum to be determined by the board (on the recommendation of the commissioner) of not less than \$200 or more than \$2,500 for each acre or fraction thereof of the area of land to be affected the following year, with a minimum bond of \$2,000, conditioned upon the faithful performance of the requirements set forth in this act and by rules of the board. A political subdivision or agency of the state need not file a bond unless required to do so by the board. The board may require the filing of the bond prior to permit issuance or at any time thereafter.

(c) In determining the amount of the bond within the above limits, the board shall take into consideration the character and nature of the overburden, the future suitable

use of the land involved and the cost of backfilling, grading, highwall reduction, subsidence stabilization, water control, topsoiling, and reclamation to be required; but in no event shall the bond be less than the total estimated cost to the state of completing the work described in the reclamation plan."

Section 2. Section 50-1044, R.C.M. 1947, is amended to read as follows:

"50-1044. Area mining required — grading and revegetation — release of bond — alternative plan. (1) Area strip mining, a method of operation which does not produce a bench or fill bench, is required where strip mining is proposed. All highwalls must be reduced and the steepest slope of the reduced highwall shall be no greater than twenty (20) degrees from the horizontal. Highwall reduction shall be commenced at or beyond the top of the highwall and sloped to the graded spoil bank. Reduction, backfilling, and grading shall eliminate all highwalls and spoil peaks. The area of land affected shall be restored to the approximate original contour of the land. When directed by the department, the operator shall construct in the final grading, such diversion ditches, depressions, or terraces as will accumulate or control the water runoff. Additional restoration work may be required by the department according to rules adopted by the board.

(2) In addition to the backfilling and grading requirements, the operator's method of operation on steep slopes may be regulated and controlled according to rules adopted by the board. These rules may require any measure whatsoever to accomplish the purpose of this act.

(3) All available topsoil shall be removed in a separate layer, guarded from erosion and pollution, kept in such a condition that it can sustain vegetation of at least the quality and variety it sustained prior to removal, and returned as the top layer after the operation has been backfilled and graded; provided that the operator shall accord substantially the same treatment to any subsurface deposit of material that is capable, as determined by the department, of supporting surface vegetation virtually as well as the present topsoil.

(4) As determined by rules of the board, time limits shall be established requiring backfilling, grading, subsidence stabilization, water control, highwall reduction, topsoiling, planting, and revegetation to be kept current. All backfilling, subsidence stabilization, sealing, grading, and topsoiling shall be completed before necessary equipment is moved from the operation.

(5) When the backfilling, grading, subsidence stabilization, water controls, and topsoiling have been completed and approved by the department, the commissioner

may release so much of the bond which was filed for that portion of the operation as the commissioner may determine, provided that no less than two hundred dollars (\$200) per acre shall be retained by the department until such time as the planting and revegetation is done according to law and approved by the department, at which time the commissioner shall release the bond in the remaining amount.

(6) An operator may propose alternative plans other than backfilling, grading, highwall reduction, or topsoiling if the restoration will be consistent with the purpose of this act. These plans shall be submitted to the department, and, after consultation with the landowner, if the plans are approved by the board and complied with within the time limits as may be determined by the board as being reasonable for carrying out the plans, the backfilling, grading, highwall reduction, or topsoiling requirements of this act may be modified by the board. An operator who proposes alternative plans that will affect an existing permit shall comply with the notice requirement of section 50-1039 ~~(2)~~ (4) (k)."

Section 3. Section 50-1404, R.C.M. 1947, is amended to read as follows:

"50-1404. Approved plan required for strip mining -- period for which effective. (1) No operator may engage in strip mining without having first obtained approval of a

1 strip mining plan from the department as provided for in
2 section 5 [50-1405].

3 (2) Approved strip mining plans shall be effective for
4 ~~two (2) years from the date of commencing the operation or~~
5 ~~one (1) year~~ 5 years from the date the plan is approved,
6 ~~whichever occurs first~~ with annual reports to the
7 department, as prescribed in 50-1039(2), in which the
8 operator indicates whether any waste has occurred in the
9 past year or is expected to occur in the forthcoming year."

-End-

HOUSE BUSINESS AND INDUSTRY COMMITTEE

February 16, 1977

The meeting was called to order at 10:30 a.m., in the Governor's Reception Room, with all members present with the exception of Reps. Bradley, Burnett, and Ellison who were excused.

House Bill No. 558 was discussed. Rep. Fabrega, sponsor, gave an explanation of the bill and stated it is amending the Montana permits.

Proponents:

Ms. Pat Stuart stated that all the members of the Montana Coal Council support this bill. It would eliminate the ruliness of the permitting system.

Mr. Ralph Moore and Mr. Kenneth Toineeta testified in support of the bill. Mr. Toineeta said that a 5-year permit is just as good as the 1-year permit. He submitted an example of an application procedure and brought with him two boxes of the material for one application. He showed a map of the history of each permit. He stated that each application requires a planning permit. Five mines would take a total of 300 reports.

Mr. Gene Phillips stated that a mine costs 50 million dollars. The annual permit system affects the financing substantially. This bill does not change any of the controls or standards. It would provide more effective procedures.

Mr. Leo Berry submitted amendments (testimony and amendments attached).

Ms. Sara Ignatius stated it would clear up much of the paper work needed. She also submitted a set of amendments (attached).

Mr. Ward Shannahan (testimony attached).

Rep. Fabrega stated in closing that the industry and the Department would like to streamline their paperwork.

It was stated in the questioning period that the reason the lands are bonded which are not within the boundaries is due to the granting on that permit and one would also run into administrative problems.

House Bill No. 564 was discussed. Rep. Barrett, sponsor, stated that the bill was not complicated. He gave a brief explanation of the bill and stated the best review of the bill is stated in a document which he submitted to the committee (attached). This bill would allow free competition in the liquor industry.

The following men testified as proponents: Mr. Herb Jones, Ms. Joy Wicks, Ms. Mardell Bird, Mr. Don Boyer, K. Foster, Mr. Tom Winzer, Mr. Bob Durkee, Mr. Don Pegg, Mr. Stoner, and Mr. Rapcock. Mr. Rapcock stated that the state-owned and operated liquor stores are an expense to the taxpayers. The liquor stores are insufficient and inconvenient.

MINUTES OF THE MEETING
NATURAL RESOURCES
MONTANA STATE SENATE

March 10, 1977

The twenty-sixth meeting of the Natural Resources Committee was called to order by Senator Elmer Flynn, Chairman, at 9:30 a. m. on the above date in Room 405 of the State Capitol Building.

ROLL CALL: Upon roll call all members were present.

CONSIDERATION OF HB 558: An Act to convert the 1-year operating permits under the Montana Strip and Underground Mine Reclamation Act and Coal Conservation Act into 5-year permits with annual reporting requirements.

Representative Jay Fabrega, representing District 44, stated that this bill has an annual reporting requirement. The bill was amended at the suggestion of Commissioner Berry and also of the Northern Plains Council. This is a good bill.

Mr. Leo Berry, representing the Department of State Lands, stated that this is a good bill and will assist the department in planning of the companies. Environmental Impact Statements will be prepared on a 5-year basis instead of a 1-year basis. Certainly we support the bill.

Mr. Jim Mockler, Executive Secretary of the Montana Coal Council, stated that they are faced with a mountain of paperwork. The amendments are acceptable to me and to Mr. Berry and to Northern Plains. We agree with the bill as written and also hope you will pass this bill.

Mr. Gene Phillips, representing Pacific Power and Light and Decker Coal Company, said he likes the ease it will give them in obtaining financing in obtaining new mines. We do very much support this bill.

Mr. Joe Crosswhite, President of Montana Trades Association, said we are very much in support of this bill. He stated that the working people of today have enough problems with inflation, taxes, and so forth without having no job security from year to year. When you are on a 1-year permit you don't know whether you are going to get a permit for the second year so a person doesn't know whether to buy a home or what. This bill gives them better job security.

Sarah Ignatius, Staff Representative of the Northern Plains Council stated they would like to lend their support to this bill also. A lot

of paperwork will be eliminated and some better planning will result over the five-year period.

CONSIDERATION OF HB 197: An Act extending the time for acting on operating permit applications under the Hard-Rock Mine Reclamation Law.

Representative Joe Quilici, representing District 84 and Chief Sponsor of HB 197, stated that within 60 days of complete application the department shall determine whether an Environmental Impact Statement is needed or in 120 days will either reject or grant the permit. The Department of Lands said that they could do an Environmental Impact Statement in 365 days. They don't ever call for an Environmental Impact Statement on a small operation, just a major operation. Since 1971 the Department has only prepared one Environmental Impact Statement and that was against the Anaconda Company. This isn't going to affect the small miner. They have sometime issued these permits in 39 days so this is not going to affect small miners.

Mr. Leo Berry, representing the Department of State Lands, stated that this bill extends the time for review of applications for operating permits which require an environmental impact statement from 60 days to 365 days. Environmental Impact Statements are prepared only on major state actions. This bill will not affect small miners, since they are exempt from the Act. (See Attachment #1.)

Mr. Steve Williams, representing the Anaconda Company, stated that this bill will affect his operation. He introduced Mr. LeRoy Wilkes.

Mr. LeRoy Wilkes, of the Anaconda Company, stated that the Anaconda Company opposes House Bill 197 because it would extend the time frame for a miner to secure an operating permit from the present 60 days to 365 days. HB 197 does not improve reclamation or add any new benefits to the reclamation law. The provisions of HB 197 would not make the present law supplementary to MEPA. (See Attachment #2.)

Mr. Gene Phillips, representing ASARCO, stated that he was not really here as an opponent. He stated that on Page 3 and the top of Page 4, we asked that the bill be amended in order to exempt ASARCO from this bill.

Mr. Neil Lynch, representing the Montana Mining Association, stated that he was opposed to this bill. There is no such thing as a small miner after the mine is a success. The costs of exploration are significant and if he had to wait one year you know you only wouldn't have any small miners, you just wouldn't have any miners.

Mr. John Clema, member of the mining industry in Missoula, Montana, stated that this bill doesn't help us. 60 days can be a very long time for someone operating on limited capital.

ROLL CALL

NATURAL RESOURCES COMMITTEE

45th LEGISLATIVE SESSION - - 1977

Date 3/10/77

[illegible]

Each day attach to minutes

HB 197

SENATE

Natural Resources COMMITTEE

BILL HB 558

VISITORS' REGISTER

DATE 3/0/77

Please note bill no.

(check one)

NAME

REPRESENTING

BILL #

SUPPORT

OPPOS

Marion M. Long

Tenneco

197
558

foll

Joe C. C. C.

WETA-Open Space

558

X X

K. C. C.

League of Women Voters

Lauren France

Mt Mining Assoc

197

✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

NAME:

Les BERRY

DATE:

ADDRESS:

PHONE:

REPRESENTING WHOM?

State Lands

APPEARING ON WHICH PROPOSAL:

197, 558

DO YOU:

SUPPORT?

X

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Gene Phillips DATE: 3/10/77

ADDRESS: Box 759 Kalispell

PHONE: 755-6644

REPRESENTING WHOM? Pacific Power & Light and Decker Coal

APPEARING ON WHICH PROPOSAL: HB 558

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME:

Jim Mochler

DATE:

3/19/77

ADDRESS:

2301 Colonial Dr

PHONE:

442-6223

REPRESENTING WHOM?

Montana Coal Council

APPEARING ON WHICH PROPOSAL:

HB 558

DO YOU:

SUPPORT?

X

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME:

Sarah Ignatius

DATE:

3/10/77

ADDRESS:

Northern Plains Resource Council
101 W. Lawrence

PHONE:

443 3628

REPRESENTING WHOM?

NPRC

APPEARING ON WHICH PROPOSAL:

HR 558

DO YOU:

SUPPORT?

~~X~~

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Mrs. Grove also suggested that an amendment be inserted on Page 2, Line 13. (See Attachment #4.)

Senator Devine said, we have sent a lot of bills to the House to try to eliminate duplication. We have a bill here to create another \$28,000 job. Don't we have a lot of expertise in these offices now.

Representative Meloy said, we are going to have an expert coordinating the experts.

Mr. Lohn added, this in effect would be Bill Christensen's office. We feel we can do it within the existing staff.

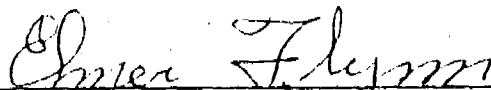
Senator Devine, is this general fund money.

Representative Meloy said, it is already budgeted for.

DISPOSITION OF HB 484: HB 484 was previously passed out of Committee on March 17, 1977. Mr. Larry Weinberg explained that the word "advisory" was missed in a few places and a few additional amendments had to be put in. He explained these additions. At this time motion was made by Senator Roskie and seconded by Senator Dover that these additional amendments be accepted. Motion carried unanimously.

DISPOSITION OF HB 558: Motion was made by Senator Dover and seconded by Senator Manley that HB 558 BE CONCURRED IN. Motion carried unanimously.

ADJOURNMENT: There being no further business, the meeting was adjourned at 11:00 a.m.



SENATOR ELMER FLYNN, CHAIRMAN

ROLL CALL

NATURAL RESOURCES COMMITTEE

45th LEGISLATIVE SESSION - - 1977

Date 3/24/77

[illegible]

STANDING COMMITTEE REPORT

March 24 19 77

MR. PRESIDENT

We, your committee on NATURAL RESOURCES

having had under consideration HOUSE Bill No. 558

Respectfully report as follows: That HOUSE Bill No. 553,

BE CONCURRED IN

DQ.PASS
XXXXXX

James F. [Signature]
Chairman.

HOUSE BILL NO. 558

INTRODUCED BY FABREGA, CONROY, MOORE, PISTORIA, MEYER,
DASSINGER, AAGESON, SIVERTSEN, DAY

A BILL FOR AN ACT ENTITLED: "AN ACT TO CONVERT THE 1-YEAR
OPERATING PERMITS UNDER THE MONTANA STRIP AND UNDERGROUND
MINE RECLAMATION ACT AND COAL CONSERVATION ACT INTO 5-YEAR
PERMITS WITH ANNUAL REPORTING REQUIREMENTS; AMENDING
SECTIONS 50-1039, ~~50-1040~~, 50-1044, AND 50-1046, R.C.M.
1947; AND REPEALING SECTION 50-1049, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 50-1039, R.C.M. 1947, is amended to
read as follows:

"50-1039. Permit required to engage in strip mining or
underground mining -- application for permit -- contents --
fee -- bond -- agencies exempt -- annual report. (1) An
operator may not engage in strip or underground mining
without having first obtained from the department a permit
designating the area of land affected by the operation;
WHICH DESIGNATION SHALL INCLUDE ALL LANDS REASONABLY
ANTICIPATED TO BE MINED OR OTHERWISE AFFECTED DURING THE
APPLICABLE 5-YEAR PERIOD. The permit shall authorize the
operator to engage in strip or underground mining upon the
area of land described in his application and designated in

the permit for a period of ~~one-¹¹-year~~ 5 years from the
date of its issuance. Such permit shall be renewable from
~~year--to--year~~ upon each 5-year anniversary thereafter upon
application to the department at least thirty (30) but not
more than sixty (60) days prior to the renewal date so long
as the operator is in compliance with the requirements of
this act, the rules hereunder, and the reclamation plan
provided for in section 50-1043 and agrees to comply with
all applicable laws and rules in effect at the time of
renewal. Such renewal shall further be subject to the denial
provisions of sections 50-1042, 50-1046 and 50-1050.

(2) An operator shall file an annual report with the
department within 30 days of the anniversary date of each
permit. Included within this report shall be:

(a) the name and address of the operator and permit
number;

(b) a report in such detail as the department shall
require, supplemented with maps, cross sections, or other
material indicating the extent to which mining operations
have been carried out, the progress of all reclamation work,
the extent to which expectations and predictions made in the
original application have been fulfilled, and any deviation
therefrom, and the number of acres affected; and

(c) a revised schedule or timetable of operations and
reclamation and an estimate of the number of acres to be

REFERENCE BILL

1 affected during the next 1-year period.

2 (3) Upon receipt of the annual report the department
3 may make further inquiry and request further information,
4 and if it does so shall allow a reasonable opportunity for
5 the operator to respond.

6 (4) When problem situations are revealed by review of
7 new information or as a result of field inspections, the
8 department may order such changes in the mining and
9 reclamation plans as are necessary to insure compliance
10 with this chapter.

11 (2)(4)(5) An operator desiring a permit shall file an
12 application which shall contain a complete and detailed plan
13 for the mining, reclamation, revegetation, and
14 rehabilitation of the land and water to be affected by the
15 operation. Such plan shall reflect thorough advance
16 investigation and study by the operator and shall include
17 all known or readily discoverable past and present uses of
18 the land and water to be affected and the approximate
19 periods of such use and shall state:

20 (a) the location and area of land to be affected by
21 the operation, with a description of access to the area from
22 the nearest public highways;

23 (b) the names and addresses of the owners of record of
24 the surface of the area of land to be affected by the permit
25 and the owners of record of all surface area within one-half

1 (.5) mile of any part of the affected area;

2 (c) the names and addresses of the present owners of
3 record of all subsurface minerals in the land to be
4 affected;

5 (d) the source of the applicant's legal right to mine
6 the mineral on the land affected by the permit;

7 (e) the permanent and temporary post-office addresses
8 of the applicant;

9 (f) whether the applicant or any person associated
10 with the applicant holds or has held any other permits under
11 this act, and an identification of those permits;

12 (g) whether the applicant is in compliance with
13 section 50-1050 and whether every officer, partner,
14 director, or any individual owning of record or beneficially
15 (alone or with associates) if known, ten percent (10%) or
16 more of any class of stock of the applicant, is subject to
17 any of the provisions of section 50-1050 and he shall so
18 certify, and whether any of the foregoing parties or persons
19 have ever had a strip mining or underground mining license
20 or permit issued by any other state or federal agency
21 revoked, or have ever forfeited a strip mining or
22 underground mining bond or a security deposited in lieu of a
23 bond and if so, a detailed explanation of the facts involved
24 in each case must be attached;

25 (h) the names and addresses of any persons who are

1 engaged in strip or underground mining activities on behalf
2 of the applicant;

3 (i) the annual rainfall and the direction and average
4 velocity of the prevailing winds in the area where the
5 applicant has requested a permit;

6 (j) the results of any test borings or core samplings
7 which the applicant or his agent has conducted on the land
8 to be affected, including the nature and the depth of the
9 various strata or overburden and topsoil, the quantities and
10 location of subsurface water and its quality, the thickness
11 of any mineral seam, an analysis of the chemical properties
12 of such minerals, including the acidity, sulphur content,
13 and trace mineral elements of any coal seam, as well as the
14 British thermal unit (B.T.U.) content of such seam, and an
15 analysis of the overburden, including topsoil. If test
16 borings or core samplings are submitted, each permit
17 application shall contain two (2) copies each of two (2)
18 sets of geologic cross-sections accurately depicting the
19 known geologic makeup beneath the surface of the affected
20 land. Each set shall depict subsurface conditions at five
21 hundred (500) foot intervals across the surface and shall
22 run at a ninety (90) degree angle to the other set unless
23 the department determines that closer intervals are
24 required. Each cross-section shall depict the thickness and
25 geological character of all known strata beginning with the

1 top soil; in addition, each application for an underground
2 mining permit shall be accompanied by cross-sections and
3 maps showing the proposed underground locations of all
4 shafts, entries, and haulageways or other excavations to be
5 excavated during the permit year. These cross-sections
6 shall also include all existing shafts, entries and
7 haulageways;

8 (k) the name and date of a daily newspaper of general
9 circulation within the county in which the applicant has
10 prominently published an announcement of his application for
11 a strip mining or underground mining permit, and a detailed
12 description of the area of land to be affected should a
13 permit be granted;

14 (l) such other or further information as the
15 department may require.

16 ~~(3) (5) (6)~~ The application for a permit shall be
17 accompanied by two (2) copies of all maps meeting the
18 requirements of the subsections below. The maps shall:

19 (a) identify the area to correspond with the
20 application;

21 (b) show any adjacent deep mining or surface mining
22 and the boundaries of surface properties and names of owners
23 of record of the affected area and within one thousand
24 (1,000) feet of any part of the affected area;

25 (c) show the names and locations of all streams,

1 creeks, or other bodies of water, roads, buildings,
2 cemeteries, oil and gas wells, and utility lines on the area
3 of land affected and within one thousand (1,000) feet of
4 such area;

5 (d) show by appropriate markings the boundaries of the
6 area of land affected, any cropline of the seam or deposit
7 of mineral to be mined, and the total number of acres
8 involved in the area of land affected;

9 (e) show the date on which the map was prepared and
10 the north point;

11 (f) show the final surface and underground water
12 drainage plan on and away from the area of land affected.
13 This plan shall indicate the directional and volume flow of
14 water, constructed drainways, natural waterways used for
15 drainage, and the streams or tributaries receiving the
16 discharge;

17 (g) show the proposed location of waste or refuse
18 area;

19 (h) show the proposed location of temporary subsoil
20 and topsoil storage area;

21 (i) show the location of test boring holes;

22 (j) show the surface location lines of any geologic
23 cross-sections which have been submitted;

24 (k) show a listing of plant varieties encountered in
25 the area to be affected and their relative dominance in the

1 area, together with an enumeration of tree varieties and the
2 approximate number of each variety occurring per acre on the
3 area to be affected, and the locations generally of the
4 various kinds and varieties of plants, including but not
5 limited to grasses, shrubs, legumes, forbs and trees;

6 (l) be certified as follows: "I, the undersigned,
7 hereby certify that this map is correct, and shows to the
8 best of my knowledge and belief all the information required
9 by the mining laws of this state." The certification shall
10 be signed and notarized. The department may reject a map as
11 incomplete if its accuracy is not so attested;

12 (m) contain such other or further information as the
13 department may require.

14 ~~(4)(6)(7)~~ In addition to the information and maps
15 required above, each application for a permit shall be
16 accompanied by detailed plans or proposals showing the
17 method of operation, the manner, time or distance, and
18 estimated cost for backfilling, subsidence stabilization,
19 water control, grading work, highwall reduction, topsoiling,
20 planting, revegetating, and a reclamation plan for the area
21 affected by the operation, which proposals shall meet the
22 requirements of this act and rules adopted under this act.

23 ~~(5)(7)(8)~~ (a) An application fee of fifty dollars
24 (\$50) shall be paid before the permit required in this
25 section shall be issued. ~~The For a bond for the first year~~

1 ~~of operations~~ the IHE operator shall file with the
 2 department a bond payable to the state of Montana with
 3 surety satisfactory to the department in the penal sum to be
 4 determined by the board (on the recommendation of the
 5 commissioner) of not less than two hundred dollars (\$200)
 6 nor more than twenty-five hundred dollars (\$2,500) for each
 7 acre or fraction thereof of the area of land affected, with
 8 a minimum bond of two thousand dollars (\$2,000), conditioned
 9 upon the faithful performance of the requirements set forth
 10 in this act and of the rules of the board. THE LEVEL OF
 11 BONDING SHALL BE RELATIVE TO THE DEGREE OF DISTURBANCE
 12 PROJECTED BY THE ORIGINAL PERMIT AND THE ANNUAL REPORT. A
 13 political subdivision or agency of the state need not file a
 14 bond unless required to do so by the board. The board may
 15 require the filing of the bond prior to permit issuance or
 16 at any time thereafter.

17 ~~but together with the annual report, the operator~~
 18 ~~shall file with the department a bond payable to the state~~
 19 ~~with surety satisfactory to the department in the penal sum~~
 20 ~~to be determined by the board on the recommendation of the~~
 21 ~~commissioner of not less than \$200 or more than \$2,500 for~~
 22 ~~each acre or fraction thereof of the area of land to be~~
 23 ~~affected the following year, with a minimum bond of \$2,000,~~
 24 ~~conditioned upon the faithful performance of the~~
 25 ~~requirements set forth in this act and by rules of the~~

1 ~~boards. A political subdivision or agency of the state need~~
 2 ~~not file a bond unless required to do so by the board. The~~
 3 ~~board may require the filing of the bond prior to permit~~
 4 ~~issuance or at any time thereafter.~~

5 (c)(B) In determining the amount of the bond within
 6 the above limits, the board shall take into consideration
 7 the character and nature of the overburden, the future
 8 suitable use of the land involved and the cost of
 9 backfilling, grading, highwall reduction, subsidence
 10 stabilization, water control, topsoiling, and reclamation to
 11 be required; but in no event shall the bond be less than the
 12 total estimated cost to the state of completing the work
 13 described in the reclamation plan."

14 SECTION 2. SECTION 50-1040, R.C.M. 1947, IS AMENDED TO
 15 READ AS FOLLOWS:

16 "50-1040. Increase or reduction in area -- application
 17 -- fee -- bond. The department may increase or reduce the
 18 area of land affected by an operation under a permit on
 19 application by an operator, but an increase may not extend
 20 the period for which an original permit was issued. An
 21 operator may, at any time ~~within one (1) year from the date~~
 22 ~~of issuance of the permit~~, apply to the department for an
 23 amendment of the permit so as to increase or reduce the
 24 acreage affected by it. The operator shall file an
 25 application and map in the same form and with the same

1 content as required for an original application under this
 2 act and shall pay an application fee of ~~fifty-dollars--(\$50)~~
 3 and shall file with the department a supplemental bond in
 4 the amount to be determined under section 6 [50-1039] for
 5 each acre or fraction of an acre of the increase approved.
 6 If the department approves a reduction in the acreage
 7 covered by the original or supplemental permit, it shall
 8 release the bond for each acre reduced, but in no case shall
 9 the bond be reduced below ~~two--thousand--dollars--(\$2,000)~~,
 10 except as provided in subsection (5) of section 6
 11 [50-1039]."

12 Section 3. Section 50-1044, R.C.M. 1947, is amended to
 13 read as follows:

14 "50-1044. Area mining required -- grading and
 15 revegetation -- release of bond -- alternative plan. (1)
 16 Area strip mining, a method of operation which does not
 17 produce a bench or fill bench, is required where strip
 18 mining is proposed. All highwalls must be reduced and the
 19 steepest slope of the reduced highwall shall be no greater
 20 than twenty (20) degrees from the horizontal. Highwall
 21 reduction shall be commenced at or beyond the top of the
 22 highwall and sloped to the graded spoil bank. Reduction,
 23 backfilling, and grading shall eliminate all highwalls and
 24 spoil peaks. The area of land affected shall be restored to
 25 the approximate original contour of the land. When directed

1 by the department, the operator shall construct in the final
 2 grading, such diversion ditches, depressions, or terraces as
 3 will accumulate or control the water runoff. Additional
 4 restoration work may be required by the department according
 5 to rules adopted by the board.

6 (2) In addition to the backfilling and grading
 7 requirements, the operator's method of operation on steep
 8 slopes may be regulated and controlled according to rules
 9 adopted by the board. These rules may require any measure
 10 whatsoever to accomplish the purpose of this act.

11 (3) All available topsoil shall be removed in a
 12 separate layer, guarded from erosion and pollution, kept in
 13 such a condition that it can sustain vegetation of at least
 14 the quality and variety it sustained prior to removal, and
 15 returned as the top layer after the operation has been
 16 backfilled and graded; provided that the operator shall
 17 accord substantially the same treatment to any subsurface
 18 deposit of material that is capable, as determined by the
 19 department, of supporting surface vegetation virtually as
 20 well as the present topsoil.

21 (4) As determined by rules of the board, time limits
 22 shall be established requiring backfilling, grading,
 23 subsidence stabilization, water control, highwall reduction,
 24 topsoiling, planting, and revegetation to be kept current.
 25 All backfilling, subsidence stabilization, sealing,

1 grading, and topsoiling shall be completed before necessary
2 equipment is moved from the operation.

3 (5) When the backfilling, grading, subsidence
4 stabilization, water controls, and topsoiling have been
5 completed and approved by the department, the commissioner
6 may release so much of the bond which was filed for that
7 portion of the operation as the commissioner may determine,
8 provided that no less than two hundred dollars (\$200) per
9 acre shall be retained by the department until such time as
10 the planting and revegetation is done according to law and
11 approved by the department, at which time the commissioner
12 shall release the bond in the remaining amount.

13 (6) An operator may propose alternative plans other
14 than backfilling, grading, highwall reduction, or topsoiling
15 if the restoration will be consistent with the purpose of
16 this act. These plans shall be submitted to the department,
17 and, after consultation with the landowner, if the plans are
18 approved by the board and complied with within the time
19 limits as may be determined by the board as being reasonable
20 for carrying out the plans, the backfilling, grading,
21 highwall reduction, or topsoiling requirements of this act
22 may be modified by the board. An operator who proposes
23 alternative plans that will affect an existing permit shall
24 comply with the notice requirement of section 50-1039
25 ~~(2)~~~~(4)~~~~(5)~~(k)."

1 Section 4. Section 50-1404, R.C.M. 1947, is amended to
2 read as follows:

3 "50-1404. Approved plan required for strip mining --
4 period for which effective. (1) No operator may engage in
5 strip mining without having first obtained approval of a
6 strip mining plan from the department as provided for in
7 section 5 [50-1405].

8 (2) Approved strip mining plans shall be effective for
9 ~~two--(2)--years--from--the--date--of--commencing--the--operation--or~~
10 ~~one--(1)--year~~ 5 years from the date the plan is approved,
11 ~~whichever--occurs--first~~ with annual reports to the
12 ~~department, as prescribed in 50-1039(2), in which the~~
13 ~~operator indicates whether any waste has occurred in the~~
14 ~~past year or is expected to occur in the forthcoming year."~~

15 ~~SECTION 5. REPEALER. SECTION 50-1049, R.C.M. 1947, IS~~
16 ~~REPEALED.~~

-End-